IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1307 OF 2006
IN
CRIMINAL APEAL NO.1249 OF 2006.

Chintaman Vansha Kurva ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mrs. Nayana Thatte, Advocate forthe applicant

Mrs. M.M. Deshmukh,A.P.P.forthe State.

CORAM : J.H. BHATIA, J.

DATE : 24TH JANUARY, 2007.

P.C.

. Heard Mrs. Nayana Thatte, learned Counsel for the applicant and Mrs. M.M. Desmukh, APP for the State. The applicant was convicted for the offence of culpable homicide under Section 304 of Indian Penal Code and was sentenced to undergo R.I. for 10 years and he had preferred appeal which is admitted. By this Application, he seeks to be released on bail pending final hearing and disposal of the appeal.

2. According to the prosecution story, the deceased and the present applicant were real brothers and there was dispute about partition of the family property. On

the relevant day the deceased went to the present applicant demanding his share. At that time exchange of hot words had taken place and thereafter the present accused gave two fist blows on the chest of the deceased due to which he fell down. After he fell down the applicant gave one more blow on the chest with a stone, which was lying on the ground nearby. That stone was weighing about 900 grams. As per the post mortem report deceased died because of haemorrhage due to rupture of heart. Only one abrasion on the epigastric region with blackish discolouration was found as external injuries. The learned trial Court has simply convicted the accused under Section 304 IPC without analysing the evidence and discussion as to whether the case would fall under section 304 (I)) or ((II) of IPC. Taking into consideration the incident in which death has occurred, I find that it is a fit case, to grant bail to the present applicant particularly, because appeal takes long period to be disposed off.

3. Pending final hearing and disposal of the appeal the applicant is granted bail in the sum of Rs. 25,000/- with surety in the like amount with condition that he shall not misuse the bail.

(J.H. BHATIA, J.)